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COMMISSION ON HUMAN RIGHTS

Fifty-third session

SUMMARY RECORD OF THE 24th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 25 March 1997, at 6 p.m.

Chairman: Mr. SOMOL (Czech Republic)

later: Mr. STROHAL (Austria)
(Vice-Chairman)

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REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-SEVENTH SESSION (continued)

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The meeting was called to order at 6.05 p.m.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-SEVENTH SESSION (agenda item 16) (continued) (E/CN.4/1997/2-E/CN.4/Sub.2/1996/41, E/CN.4/1997/76, 77 and Add.1 and 2, 78-81 and 108; E/CN.4/Sub.2/1996/6; A/51/309; A/52/56)

1. Mr. SEMASHKO (Ukraine) noted the important role played by the Sub-Commission in the human rights field, especially through its Working Groups on Indigenous Populations and Minorities. His delegation in particular supported the Sub-Commission's standard-setting activities and, in that regard, drew attention to the work done by the Commission's Working Group in elaborating a draft declaration on the rights of indigenous peoples on the basis of a text adopted by the Sub-Commission a few years previously. The Sub-Commission was of unquestionable value in considering matters such as racism, racial discrimination, the protection of minorities and indigenous peoples, and contemporary forms of slavery; its mandate had been steadily expanded over the years, as was clear from the 12 draft decisions it had recommended to the Commission for adoption, since only a few of them were covered by its initial terms of reference. The Sub-Commission was aware of the problem and had made efforts to rationalize its methods of work, restructure its agenda and achieve better coordination of its work with that of the Commission on Human Rights and other human rights bodies. In that connection his delegation welcomed its decision not to take action, at its forty-ninth session, on human rights situations which the Commission was already considering on the basis of its public procedure; that would avoid duplication between the two bodies. The Sub-Commission had also rightly decided not to propose any new studies and to have only those working documents that had no financial implications prepared. Yet it should also ensure that any studies undertaken dealt with important human rights problems or new issues which had not yet been tackled by other United Nations organs or bodies. A large number of human rights standards had already been adopted, and it should now ensure that they were effectively applied and respected throughout the world. On the other hand, the Sub-Commission must pay more attention than previously to minority and indigenous problems, which had recently assumed greater proportions.

2. It was also essential to curb the politicization which was at present a hallmark of the Sub-Commission's work and which was encouraged by the undue attention it accorded to situations in certain countries. A body like the Sub-Commission consisting of independent experts should not adopt resolutions; such action was of a political nature and therefore the prerogative of organs such as the Commission, whose members were States. It would be better for the Sub-Commission to make recommendations on the basis of an in-depth analysis of specific situations. It must preserve its independence in order to ensure the efficiency of its work in promoting human rights in the world.

3. Referring to the 1503 procedure, under which the Sub-Commission considered communications concerning human rights violations, he noted that such complaints reflected individual violations rather than situations that might reflect the existence of flagrant and systematic human rights violations. The 1503 procedure was, moreover, extremely slow and usually based on indirect sources of information. Lastly, it was inaccessible to

illiterate peoples who were unaware of United Nations procedures. It should be backed up by more efficient machinery that enabled the Sub-Commission duly to select cases of violations calling for action on the part of the Commission.

4. Ms. ANDERSON (Ireland), explaining that she wished to deal in particular with the issue of persons with disabilities, noted that the various international instruments which dealt with that question, and in particular the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, conferred on such persons rights and not privileges which could be withdrawn at the whim of Governments or suspended or reduced on grounds of resource constraints. Respect for those rights meant that persons with disabilities must be able to participate fully in all aspects of civil society, including the political process. It also implied transparency in the formulation and implementation of government policy so as to ensure that persons with disabilities were fully aware of, and had a voice in, the steps taken to ensure the full enjoyment of their human rights.

5. Two aspects of the disabilities issues were of concern to the Commission. The first concerned causation, since very often human rights violations, namely torture, malnutrition, lack of sanitation and proper medical care, caused disabling injuries, either mental or physical. That aspect of causation was dealt with under a number of items on the Commission's agenda. The second aspect concerned the widespread evidence of systematic and institutionalized discrimination against persons with disabilities which could result in their marginalization or exclusion from society. In his report on monitoring the implementation of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (A/52/56) that was before the Commission, the Special Rapporteur of the Commission for Social Development noted that the human rights of persons with disabilities enjoyed only weak protection in many countries.

6. Her delegation shared the Special Rapporteur's view that the Rules should place greater emphasis on respect for fundamental rights and that greater attention should be paid in future to the needs of women and children. It was pleased that the Commission for Social Development had recommended the renewal of the Special Rapporteur's mandate and hoped that he would be invited to participate in the Commission's discussion of the question of the rights of persons with disabilities at its forty-fourth session.

7. It was clear that violations of the human rights of persons with disabilities could not be eliminated overnight. Yet there was no shortage of material to work on. In his report on the question published as part of the human rights study series under sales no. F.92.XIV.4, the Sub-Commission's Special Rapporteur, Mr. Despouy, had submitted useful recommendations on the subject as well as a proposal for the establishment of international machinery, on which action should be taken. The role that could be played by thematic and country rapporteurs should also be studied in addressing disability and the importance of human rights education.

8. Mr. LEHMANN (Denmark) said it was of great importance that disability issues should be viewed in a human rights perspective and figure prominently on that agenda of the Commission on Human Rights. His delegation intended to

contribute actively to the drafting of a more substantive resolution on the question at the Commission's fifty-fourth session; it was in favour of renewing the mandate of the Special Rapporteur on disability of the Commission for Social Development and hoped that the Commission on Human Rights would invite him to participate in its work in 1998.

9. Integration, full participation and equal opportunities were the main objectives, and it would therefore be useful if the resolution to be submitted to the Commission at its next session were to cover elementary human rights for persons with disabilities namely, the right to participate in all aspects of society, the right to information, the right to form organizations of disabled persons, the right to education, to work, to social security, to housing, to development - having regard to their particular handicap - as well as the right to equality and to enjoy certain privileges. The Commission was under a duty to put an end to the unfair treatment of persons with disabilities and to confirm that their place was everywhere.

10. Mr. VERGNE SABOIA (Brazil) noted with regret that the Sub-Commission's report, which used to be one of the most important on the Commission's agenda, had during the past few years been examined in a cursory fashion, as was clear from the minimum amount of time allocated to the item at the current session. There was a tendency at the present time not only to disregard the work done by the Sub-Commission, which had often managed to open up new avenues, but also to deny the validity of its very existence. Such criticism was not new and in some cases even justified, but in point of fact it called in question the Sub-Commission's independence. In the view of his delegation, any serious criticism of the Sub-Commission also entailed reflection about the work of the Commission itself, since if the Sub-Commission was beginning increasingly to resemble the Commission the reverse was also true.

11. Efforts had admittedly been made by the two bodies to reform and rationalize their methods of work, and specific measures had already been taken to that end by the Sub-Commission, as indicated in the report submitted by the Chairman of its forty-eighth session, Mr. Asbjørn Eide (E/CN.4/1997/79). His delegation in particular welcomed the Sub-Commission's decision not to take action on human rights situations that had already been considered by the Commission at its latest session. It also supported the idea, referred to in paragraph 20 of that report, that the Sub-Commission should prepare a comprehensive report containing information on violations of human rights wherever they occurred. The Commission could usefully provide the Sub-Commission with guidance on that point as the latter had requested, since a report of that nature might well respond to the most frequent criticism concerning selectivity directed not only at the Sub-Commission but also at the Commission.

12. One of the most impressive parts of Mr. Eide's report was paragraph 16, which described in eloquent detail that the number of statements by observers at the Sub-Commission's sessions had increased to such an extent that little time was left for the experts to discuss the issues under consideration. It should therefore cause no surprise that the Sub-Commission had become so "politicized". If the Sub-Commission was no longer an expert body, that was due not so much to the alleged lack of independence of its members but the lack of adequate rules governing the participation of observers in its work.

Without such rules there was no escape for the Sub-Commission from bilateral disputes or other political grievances that could be better dealt with elsewhere. The adoption of such rules would be much more feasible if the Commission set the necessary guidelines.

13. The Sub-Commission's record in defending human rights and its present efforts to reform itself could not be overlooked by the Commission, which had done so little in terms of reforming and rationalizing its own agenda and methods of work. It was to be hoped that the Commission would take those positive aspects into consideration when adopting any resolution on the report of the Sub-Commission.

14. Mr. QUAYES (Bangladesh) noted with satisfaction the encouraging steps taken by the Sub-Commission to improve its methods of work and in particular to rationalize its agenda. However he regretted that such measures did not fully meet the concerns expressed by Bangladesh about the mandate and working methods of the Sub-Commission. Bangladesh had always attached special importance to the work of the Sub-Commission which was a unique body in that, although a subsidiary body of the Commission, it was composed of independent experts - a characteristic that endowed it with moral authority.

15. The Sub-Commission had a large number of positive achievements to its credit in its own mandated fields, such as racial discrimination, freedom of expression, the right to a fair trial and the protection of minorities. Yet it had also overstepped its mandate by adopting resolutions on certain countries not as a result of research carried out by its experts themselves but on the solicitation of special interest groups. That had resulted in the politicization of its discussions and could compromise its independence and divert attention from its principal task, namely, that of undertaking studies on specific subjects and examining communications containing allegations of human rights violations under the 1503 procedure. It was therefore vital that the Sub-Commission should once again concentrate on those two cardinal functions. It should also strengthen its standard-setting activities and in particular consider the possibility of elaborating human rights instruments for non-State actors. It should keep under scrutiny more subtle contemporary forms of human rights violations, such as racial discrimination, since the end of apartheid in South Africa had not put an end to all the various manifestations of racism. It could also make a closer study of ways of protecting and promoting economic and social rights and make sure that they were effectively implemented. It might be a good idea to establish a working group to determine the areas on which it should focus.

16. Referring to the Commission's working groups, his delegation noted that the two sessions of the Working Group on Minorities, whose establishment had been authorized by the Commission at its fifty-second session, had been held during the 1995-1996 inter-sessional period. That meant that the Sub-Commission had not had occasion to study the report on the Working Group's first session and to provide it with guidance before its second session; that was not in keeping with the mandate set forth in Commission resolution 1995/24. His delegation regretted in that connection that no account had been taken of the concern expressed orally on that point by Bangladesh in the Commission and Sub-Commission and in its communications addressed to the High Commissioner for Human Rights and

Assistant Secretary-General for Human Rights. In the absence of any reaction on their part, Bangladesh had decided not to participate in the Working Group's second session despite the importance it attached to its work. His delegation was also surprised by the indifference shown by the Centre for Human Rights, the Working Group itself and the Sub-Commission to the concern expressed by a member of the Commission; its concern had been further compounded by the fact that the report on the Working Group's first session had been distributed at the Commission's fifty-second session in 1996 without having been examined by the Sub-Commission. His delegation therefore considered that it would be premature for the Commission to extend the Working Group's mandate for two years as recommended by the Sub-Commission, since it had only just received the Working Group's report. It also hoped that the Sub-Commission would consider the possibility of reconstituting the Working Group so that, during its extended mandate, it would not be saddled with the discrepancies that had so far marked its work.

17. Mr. Strohal (Austria) took the Chair.

18. Mr. LIU Xinsheng (China) welcomed the first steps taken by the Sub-Commission to improve its methods of work in response to the Commission's request in resolution 1996/25. It was particularly gratified by its decision not to take any action at its forty-ninth session on human rights situations that the Commission was already considering. In that way the Sub-Commission would avoid duplication with the Commission and would be able to devote more time to the consideration of important thematic subjects. He also noted that the Sub-Commission at its last session had not proposed any new studies or new reports with the exception of working papers without financial implications, that it had not appointed any new rapporteurs and that it had entrusted an expert with the task of preparing a working paper on its methods of work to be discussed at its forty-ninth session. It was to be hoped that further reforms would be formulated during the course of the present session.

19. In that connection, his delegation suggested that the Sub-Commission should avoid further political confrontation and reduce the number of country resolutions; experts should strictly abide by their independence and make proposals rather than accusations. Moreover, the Sub-Commission should strengthen its function as an expert and advisory body on human rights matters and continue to emphasize the study of economic, social and cultural rights, the right to development as well as issues relating to women, children, racial discrimination and minorities, and submit action-oriented proposals. It should also, in a prudent, objective and pragmatic manner, choose fewer and better subjects for study by according priority to new topics or questions of concern to the developing countries that had not yet received adequate attention by the Commission. Moreover, the Sub-Commission should refrain from selecting subjects simply on the basis of the personal interest of experts and avoid taking up issues that were covered by the terms of reference of other United Nations bodies.

20. In his delegation's view, the Sub-Commission could effectively limit the time allocated to the statements of non-governmental organizations (NGOs), reduce the number of its agenda items and resolutions and improve its efficiency by focusing on the consideration of thematic subjects; in that way there would be no need to prolong its annual sessions.

21. Mr. SINGH (India) welcomed the fact that the Sub-Commission, which played an important role as a think tank, had, in response to the concern expressed by the Commission in its resolution 1996/25, embarked on the reform of its methods of work as described in the report submitted by the Chairman of its forty-eighth session, Mr. Asbjørn Eide (E/CN.4/1997/79). His delegation noted that the Sub-Commission had considerably rationalized its agenda, partly through regrouping and biennialization. That solution was preferable to the extension of its sessions, particularly at a time when the United Nations was experiencing a serious financial crisis. The Sub-Commission's decision not to propose any new studies or reports, with the exception of those recommended by a working group and working papers without financial implications which would not necessarily lead to proposals for studies, was also welcome.

22. As regards country situations, his delegation considered that not only should the Sub-Commission refrain from taking action on those that were already being examined by the Commission but that, as a body of independent experts, refrain completely from adopting resolutions on those questions; such action was for the Commission and Third Committee of the General Assembly to take. Moreover, the Sub-Commission should deal with country situations only under the 1503 procedure and, on the basis of its mandate under Commission resolution 8 (XXIII), it should act as a "facilitator" rather than a "prosecutor". Some aspects of that mandate should be reviewed, if necessary by means of a formal decision by the Commission. The Sub-Commission should continue to examine the human rights situation throughout the world but its focus must be thematic, in other words, it should identify areas requiring priority attention, such as the elimination of racism and all forms of discrimination and intolerance, and propose effective solutions to certain problems instead of making condemnations. While the Sub-Commission was perfectly within it rights in making suggestions concerning studies to be undertaken, it was for the Commission to take the necessary decisions and to set priorities for it. It was obvious that much more needed to be done if the Sub-Commission was to resume its role as a "think tank" of independent experts, and it should act as a forum for exchanges of view on specific subjects between experts, observer States and NGOs. Consideration should continue to be given to reducing the length of its sessions.

23. His delegation attached importance to the Working Group on Minorities, which sought constructive and practical solutions to minority problems with a view to ensuring peace and harmony between nations, and strongly supported the Sub-Commission's request to extend the Working Group's mandate for another two years. It also considered that certain mechanisms, such as voluntary funds, should be established only on the basis of demonstrated international interest to avoid them meeting the same fate as the Voluntary Fund for Contemporary Forms of Slavery which, for lack of resources, might have to be wound up.

24. In conclusion, his delegation once again urged the Sub-Commission to pursue its debate on the improvement of its methods of work and requested the Commission to continue to take an active interest in the Sub-Commission, and to provide timely guidance and direction, so as to ensure its effectiveness and relevance.

25. Ms. LIMJUCO (Philippines), explaining that she would focus on the question of traffic in women and girls, said that trafficking in persons was the most dehumanizing form of human rights violation that deprived the victims of their dignity and exposed them to other forms of violence and abuse. Trafficking in children was a particularly heinous crime against humanity; it was also a contemporary form of slavery that translated into huge profits for traffickers but brought the victims nothing but shame, disease and very often death. The studies carried out by the Commission's Special Rapporteurs on violence against women and on the sale of children, child prostitution and child pornography, as well as by the Working Group on Contemporary Forms of Slavery, indicated that the victims were mainly women, usually young, who were forced into prostitution in horrible conditions and earned virtually nothing. The fear of AIDS had resulted in an increasing demand for very young girls, a large number of whom were infected by the virus.

26. Her delegation therefore recommended that the Commission should give priority to the ratification and effective respect of instruments on the trafficking in persons and on slavery and slavery-like practices and that consideration should be given to updating the 1949 Convention for the Suppression of Traffic in Persons and Exploitation of the Prostitution of Others with a view to extending it to cover forced marriages and forced labour and providing it with a monitoring mechanism. The Commission should also support the envisioned optional protocol to the Convention on the Rights of the Child, which would deal explicitly with the sale of children, child prostitution and child pornography, and translate into action the anti-trafficking provisions of the Beijing Declaration and Platform of Action as well as the relevant recommendations of other conferences and meetings, such as the World Congress against Commercial Sexual Exploitation of Children.

27. At the national level, each country should adopt laws or strengthen existing legislation to curb trafficking in persons and criminalize the practice in all its forms. In that respect, her delegation commended the Commission on Crime Prevention and Criminal Justice on its work against organized transnational crime and was gratified by the proposal submitted by the Polish delegation to the General Assembly at its fifty-first session for the elaboration of an international convention on organized transnational crime which could prevent and combat trafficking in women and children. Offenders and intermediaries must obviously be penalized but it was just as important not to penalize the victims themselves; on the contrary, they should be helped to return to their home countries and reintegrate themselves in society. NGOs could play a valuable role in that respect. The abuse of advanced information technology for trafficking purposes should also be looked into.

28. The task of dismantling all national, regional and international trafficking networks could not be accomplished overnight and required the cooperation of all States. The Philippine Congress was already considering the adoption of a law to curb trafficking in women. Countries must all work together in order to combat and - hopefully - completely eliminate that scourge.

29. Mr. HELLBACH (Germany) said that during the previous 50 years the Sub-Commission had made an outstanding contribution to the development of human rights law; during that same period new mechanisms and bodies had been created and others, such as the Commission, had changed in nature and the emphasis had shifted from standard-setting to the implementation of existing and highly complex human rights standards. The criticism to which the Sub-Commission had always been subjected had increased during the past few years and had reached a point where it seemed inevitable that its role and place within the human rights programme should be reviewed. The Sub-Commission had embarked upon that task in 1992 and had taken steps to rationalize its methods of work; that was a first step in the right direction. More far-reaching reforms were still necessary, however, if it was once again to become a body of independent experts who engaged in reflection and research on topical human rights questions which, for various reasons, could not be dealt with in depth by others. His delegation was of the view that it was the Commission that should initiate and guide Sub-Commission reforms without entering into the details of its mandate and working methods - a subject that only the Sub-Commission itself could tackle.

30. It was above all in connection with the consideration of country situations that the Sub-Commission's role should be reviewed as a matter of urgency. That was not to say, however, that the Sub-Commission should in future refrain from examining such situations or collecting information on specific countries. It should simply analyse root causes of specific situations, identify trends and search for practical approaches to prevent violations and to solve crises. In exceptional cases, however, it should be able to address new and particularly serious situations which had not been considered by the Commission from a more political perspective, for silence on its part could well call in question its credibility as a subsidiary body of the Commission.

31. Those reforms could not be achieved overnight but must nevertheless become a top priority for the Sub-Commission, which could no longer afford to continue doing business as usual. His delegation was confident that it would meet that challenge.

32. Mr. LOFTIS (United States of America) said it was inconceivable that there were countries in the world where the abominable practice of slavery still existed. A case in point was Sudan where, although prohibited by law, slavery and forced labour were on the increase, where the slave trade was alive and well, and where women and children from the South were sold in the North as servants, labourers or concubines. Mauritania also tolerated servitude, although to a lesser extent than Sudan, but as slavery constituted a human rights violation of the worst order the Mauritanian Government must do everything in its power to put an end to it.

33. Although outright chattel slavery had ended in almost every country of the world, closely related practices, of which one of the most reprehensible was trafficking in women and girls for sexual purposes, were not only prevalent but also on the rise. Responsibility for that trend should be laid at the door not only of those who ran the sex trade but also those who engaged in sex tourism. The United States, which had always played an active part in efforts to curb trafficking in women and children at the national as well as

the international level, was one of the few countries that had enacted a statute prohibiting sex tourism. His delegation urged other countries to do the same, and in particular called upon those in which that degrading practice was still prevalent to adopt or amend laws on prostitution so as to put an end to it by introducing severe penalties for all those responsible. The sale of children also constituted a particularly odious human rights violation which often had its origins in extreme poverty but which was nonetheless a practice that could hardly be tolerated at the end of the twentieth century. The solution to the problem was to be found in education and development, and in the firm commitment of the countries concerned to put an end to it.

34. The Commission could no longer tolerate that human beings, in any country, even the most undeveloped, should be reduced to slavery or become the victims of contemporary forms of servitude. It had to do everything possible to put an end to those inhuman practices if it did not wish to forfeit its credibility.

35. Ms. JANJUA (Pakistan) paid tribute to the work accomplished by the Sub-Commission since its establishment, particularly in respect of various seminal studies on important human rights issues and the role it played in the preparation of a number of human rights instruments. It would appear, however, that over the years it had embarked upon activities which went beyond its terms of reference and which had diverted it from its primary function of working as a "think tank" for the Commission.

36. Her delegation therefore welcomed the steps taken by the Sub-Commission to rationalize its methods of work, as described in the report of the Chairman of its forty-eighth session, Mr. Asbjørn Eide (E/CN.4/1997/79). Those measures would to some extent enable it to overcome the problem of the lack of time for an in-depth study of certain questions. Another possible solution was not to extend the length of the session but to establish priorities, request Governments and NGOs to show greater restraint, limit the size of documents submitted and ensure that speakers did not exceed the time allotted to them.

37. Her delegation considered that, generally speaking, the Sub-Commission had done a good job in tackling the tasks assigned to it by the Economic and Social Council in resolutions 1235 (XLII) and 1503 (XLVIII) and by the Commission in resolution 8 (XXIII), through its Working Group on communications. It therefore believed that the preparation of a comprehensive report on human rights violations in the world would duplicate not only the work of that Working Group but also the reports submitted to the Commission by the Chairmen-Rapporteurs of various working groups and the Special Rapporteurs. Her delegation also welcomed the Sub-Commission's decision not to examine situations already under consideration by the Commission and appreciated the emphasis it had placed on economic and social rights. It looked forward to the completion of studies on the question of the impunity of perpetrators of economic, social and cultural rights and of human rights and income distribution, as well as the working papers commissioned by the Sub-Commission at the last session.

38. The Sub-Commission had done and was still doing useful work in areas within its competence. It was to be hoped, however, that it would not take upon itself tasks that belonged to the Commission on Human Rights, particularly by examining situations in specific countries.

39. Mr. Somol (Czech Republic) resumed the Chair.

40. Mr. GOMEZ-ROBLEDO (Mexico) recalled that the great majority of the States Members of the United Nations had come out in favour of nuclear disarmament and that they were required, under international law - as emphasized by the International Court of Justice in its advisory opinion of 8 July 1966 - to embark upon negotiations to that end. For that reason his delegation approved the recommendation made by the Sub-Commission in resolution 1996/14 to the effect that the Conference on Disarmament should immediately start negotiations on nuclear disarmament to reduce nuclear weapons globally within a phased programme, thereby contributing to the enhancement of international peace and security and the protection of human rights and fundamental freedoms and above all the right to life. It also supported the Sub-Commission's request to the Secretary-General in its resolution 1996/16 to collect information from Governments, the competent United Nations bodies and agencies on the use of nuclear weapons, chemical weapons and biological and other weaponry, on their consequential effects and on the danger they represented to life, physical security and other human rights. It would be well in that connection if the Centre for Human Rights, in preparing that report, were to contact the International Committee of the Red Cross (ICRC) which had considerable experience in the matter.

41. His delegation also welcomed the fact that the Sub-Commission had dealt with the effects of anti-personnel landmines, which claimed 25,000 victims each year throughout the world and whose use constituted a flagrant violation of international humanitarian law. Mexico neither produced nor imported anti-personnel landmines and the Government exercised strict control over Mexican enterprises and companies that used explosive devices. It was one of the countries that advocated the prohibition of such devices and had urged States which had not yet done so to accede to or ratify the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects and the Protocols thereto. He agreed with the Sub-Commission that a solution had to be found to the problems posed by the use, stockpiling, production and transfer of anti-personnel landmines before the year 2001, when the Review Conference of the States parties to the 1981 Convention was to be held. That was why Mexico was participating actively in the negotiations initiated in October 1996 at Ottawa with a view to the conclusion of a legally binding international agreement on the complete prohibition of anti-personnel landmines, in accordance to the decision adopted at the Ottawa International Strategy Conference and approved by the United Nations General Assembly in resolution 51/45 S.

42. Ms. ZUREK (Observer for Poland) said that violence against women was a major obstacle they encountered in their efforts to achieve full enjoyment of human rights on an equal footing with men. It was therefore gratifying that the Commission on Human Rights had tackled the problem and had appointed a Special Rapporteur to study the problem in depth. Trafficking in and the

forced prostitution of women, which was one aspect of violence against women, was a serious problem that was becoming worse in many countries, including Poland. Her delegation congratulated Ms. Coomaraswamy, the Special Rapporteur, on the results of her work and assured her that Poland would actively follow up the recommendations she had made in the report on her visit to Poland (E/CN.4/1997/47/Add.1).

43. It must not be overlooked that, as had been reaffirmed at Vienna by the World Conference on Human Rights, all human rights were interdependent and that the right to development was an integral part of fundamental human rights. Any denial of human rights therefore constituted an obstacle to development. Women's economic independence and their right of access to resources and power, as well as their participation in decision-making, were essential if they were not to become the first victims of the poverty that prevented them from genuinely exercising their rights, including the right to development. In that connection her delegation appreciated the report of the Intergovernmental Group of Experts on the Right to Development and expressed the hope that the gender perspective would be featured in its work.

44. The Vienna Declaration and Programme of Action stressed that women should make effective use of existing procedures under international human rights instruments as well as of new procedures so as to be able to enjoy the rights to which they were entitled under such instruments. Poland therefore welcomed the elaboration of an optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women by the Commission on the Status of Women. There was currently no specific procedure within the United Nations system for considering individual cases of violations of the human rights of women; the optional protocol would make good that shortcoming, facilitate the implementation of the Convention and contribute to the realization of the high expectations expressed at the Vienna and Beijing Conferences.

45. Her delegation was of the view that all human rights mechanisms, including treaty bodies and special rapporteurs, should focus on the rights of women in their work and their reports. The Centre for Human Rights should cooperate closely with bodies dealing with the rights of women within the United Nations, and in particular with the Division for the Advancement of Women. Similarly, the Commission on Human Rights should increase its cooperation with the Commission on the Status of Women, which had been established to monitor the situation of women and to promote their rights.

46. Mr. WILLE (Observer for Norway), speaking on behalf of the Nordic countries, said that the most serious violations of human rights tended to occur during internal conflicts, particularly when generalized violence led the Government of a State to make derogations from certain obligations it had assumed under international human rights law. The General Assembly had on several occasions emphasized that, as stated in article 4 of the International Covenant on Civil and Political Rights, such derogations were extraordinary measures which were allowed only in times of an emergency threatening the life of the nation. Additional difficulties occurred when the State in question was not a party to the relevant international instruments, and a further problem was raised by violations committed not by agents of the State but by groups that considered themselves free from any obligations whatever.

47. All those issues had been examined at the International Workshop on Minimum Humanitarian Standards that had been organized by the Nordic countries in cooperation with ICRC at Cape Town (South Africa) from 27 to 29 September 1996; the report of the Workshop had been issued as document E/CN.4/1997/77/Add.1. Participants had agreed that the Commission should request the Secretary-General, in coordination with ICRC, to undertake an analytical study of the issues addressed by the Workshop. The Nordic countries therefore intended to prepare a draft resolution requesting that a study of that nature should be undertaken and examined at a seminar convened under the auspices of the Commission on Human Rights. The issue should be thoroughly discussed in a humanitarian and pragmatic context and care be taken not to erode the legal standards contained in humanitarian and human rights conventions.

48. Ms. MILLER (United Nations Children's Fund) emphasized that trafficking in women and children constituted a serious breach of international human rights standards and a violation of inherent human dignity, since in that context the victims were treated as commodities rather than people. It was therefore vital that the international community should deal with that problem as a matter of urgency and endeavour to find effective solutions. The Declaration and Agenda for Action adopted at the recent World Congress against Sexual Exploitation of Children held at Stockholm in August 1996 provided guidelines for efforts to combat that scourge. Several countries were preparing national action plans in accordance with those guidelines, which should pave the way for the enhanced protection of women and children from all forms of sale and trafficking.

49. The Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women also envisaged specific measures to combat trafficking in women and children. The large number of countries that had ratified those two instruments should now ensure their effective implementation and act on the commitments they had assumed. Specifically, they should strengthen existing legislation, adopt new laws, increase educational opportunities for disadvantaged children - and particularly girls - introduce social reintegration programmes for children who had experienced trafficking, provide suitable training for police officers and judicial officials and organize awareness-raising campaigns. UNICEF supported the initiatives taken in that connection by Governments and NGOs, such as those in Cambodia, Nepal and Thailand.

50. The Commission on Human Rights should continue its examination of the issue and ensure that the work of the Special Rapporteur on the sale of children, child prostitution and child pornography, as well as the Special Rapporteur on violence against women was fully supported. For its part, UNICEF would continue to seek local solutions to such problems that took into account the many economic, social and cultural factors that contributed to that modern form of slavery.

51. Mr. BONNARD (International Committee of the Red Cross) reaffirmed ICRC's wholehearted support for all initiatives aimed at strengthening the protection of individuals in situations of internal violence. It was in that spirit that it had cooperated closely with the International Workshop on Minimum Humanitarian Standards held at Cape Town in September 1996. ICRC fully

endorsed the idea of having the Secretary-General draft an analytical report on the question on the basis of information supplied by humanitarian organizations working in the field, focusing his attention on specific areas of concern, especially those which were insufficiently covered by existing norms of international law. There was no doubt that an approach based on practice and centred on the needs of the victims of internal violence would be more likely to stimulate the search for solutions to the problem; ICRC was prepared to contribute actively to that task.

52. Mr. VIGNY (Observer for Switzerland) said he was gratified by the organization in Cape Town by the Nordic States and South Africa, in cooperation with ICRC, of a Workshop intended to make the international community aware of the extremely serious violations of human rights and humanitarian law that could be committed by States or armed groups and individuals in crisis situations or in internal conflicts. Participants had in particular discussed the desirability or need to draft a declaration on minimum humanitarian standards without weakening international law, and had recommended that Governments and international organizations, as well as NGOs and civil society, should promote a discussion of the minimum humanitarian standards that should be applicable in all circumstances and at any time and particularly of specific measures to protect the victims of extremely serious violations of human rights and humanitarian law.

53. His delegation hoped that, in accordance with another recommendation contained in the report on the Workshop (E/CN.4/1997/77/Add.1), the Commission on Human Rights would request the Centre for Human Rights to undertake, in coordination with ICRC, an analytical study of all the issues connected with minimum humanitarian standards, and that the results of that study would be examined at a seminar held under the auspices of the Commission.

54. Ms. SPALDING (United Towns Agency for North-South Cooperation) said she was most concerned by the extremely serious shortage of financial support for United Nations voluntary funds. An eloquent example of the situation had been provided by the Chairman of the Board of Trustees of the Voluntary Trust Fund on Contemporary Forms of Slavery which had been virtually without resources since 1995, and was likely to disappear if nothing was done. It was admittedly encouraging that at least five voluntary trust funds were at present being managed by the Centre for Human Rights. The restructuring of the Centre should make it possible not only to improve internal administrative cohesion but also to streamline the contributions process. However, additional efforts were necessary if fund-raising campaigns were to be better organized. One solution would be to appoint someone who would be responsible for fund-raising on a full-time basis, as was the current practice in the Office of the High Commissioner for Human Rights and other United Nations bodies. She hoped that the idea would be endorsed by the new Secretary-General and the future High Commissioner for Human Rights. The combination of in-house streamlining of the administration of the funds as well as an in-house capital-raising department would go a long way in correcting the present deplorable situation.

55. She also mentioned the initiatives taken during the previous few years by non-profit and profit-making groups to establish financial machinery with a

view to contributing, on a partnership basis, to the protection of human rights, predominantly through the voluntary trust funds. The fiftieth anniversary of the Universal Declaration of Human Rights would offer an occasion for strengthening that partnership.

56. Ms. AVELLA ESQUIVEL (Women's International Democratic Federation), drew the Commission's attention to the situation of women and girls who were exploited, usually for sexual purposes, in the context of international trafficking in persons, and said that the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others should be provided with a permanent monitoring mechanism. All States should launch information campaigns to warn women of the danger and take effective measures to protect them.

57. Her organization shared the concern expressed by the Sub-Commission regarding states of exception and supported its recommendations on the subject. The international community should remind the Governments of States which claimed to be democratic but which in practice failed to guarantee the fundamental freedoms of their citizens of their obligations. A striking example was offered by Colombia, where the state of exception had become the norm and the normal was the exception, since Colombians had lived for 37 of the 47 previous years under a state of siege which, since 1991, had been called "a state of internal disturbances". Yet it was obvious that such exceptional measures had never solved problems connected with the maintenance of public order but had, on the contrary, weakened the democratic system, fostered State terrorism and had provided the perpetrators of human rights violations with even greater impunity. The Government was at present seeking to introduce constitutional counter-reforms intended to deprive the judiciary of any control over the proclamation of a state of exception and attribute criminal investigation service functions to the armed forces, which was contrary to democratic principles.

58. Since the abusive and repeated proclamation of a state of exception in Colombia had had the effect of weakening democratic institutions, the Commission should adopt a resolution condemning the Colombian Government's draft constitutional reform, whose application would make it even more difficult to ensure respect for the fundamental rights of Colombian citizens.

59. Ms. LAROCHE (International Federation of Human Rights Leagues) said that there were very few countries in the world where there was no trafficking in persons and particularly in women - either countries of origin or countries of destination.

60. In China, thousands of women were victims of that practice each year and were taken to other countries where they were forced into prostitution or sold as wives to farmers. Most of them were young, often poorly educated, from rural areas and in search of jobs; they had been abducted or deceived by traffickers, usually in collusion with corrupt officials, who provided them with false papers such as marriage certificates. Since the victims were illegally in the countries to which they had been brought and without resources they were all the more easily victimized and were unable to return to their country of origin on their own. In most cases, if they managed to be repatriated with the help of certain NGOs, they received no assistance with a view to their rehabilitation or social reintegration.

61. The same was true of the thousands of Russian women victimized by organized trafficking networks throughout Europe, Asia, the United States and Canada. They were not only forced into prostitution, usually without pay, but were also exposed to physical and psychological violence and threatened with reprisals if they put up any resistance. They were deprived of information and medical care, and were therefore at particular risk of contamination by sexually transmitted diseases. Moreover, since they had no passport or proper papers, they were often arrested, detained or expelled by the authorities of the countries which they had entered illegally.

62. Her organization therefore called upon the Commission to adopt a resolution on the trafficking in women and young girls for sexual purposes that would urge all States to refrain from regarding the victims of such trafficking as illegal immigrants, to establish international standards providing severe punishment for traffickers, to take energetic steps to combat organized crime in that connection and to ensure that security and police forces, both on the national as well international level, looked upon trafficking in women just as much of a crime as drug and arms trafficking.

63. Mr. CHAKMA (Asian Cultural Forum on Development) condemned the inability and unwillingness of Governments to prosecute the perpetrators of human rights violations, particularly in countries where legislation had been adopted providing law-enforcement officials with impunity from prosecution during states of emergency or internal armed conflicts.

64. On 17 November 1993, for example, members of the Bangladesh Army had with complete impunity massacred about 40 members of the Jumma community. If it wished to dispel the doubts of the international community about the health of democracy in Bangladesh, the Government of Bangladesh should make public the report of the Commission of Inquiry set up to look into the matter and prosecute the perpetrators in civilian courts.

65. Moreover, planned population transfers and the settlement of persons on the land thus depopulated constituted one of the most serious forms of human rights abuses, and an expert seminar had been organized on the question by the Centre for Human Rights in 1997. Such population transfers, far from facilitating the settlement of disputes, in point of fact jeopardized many peace processes, and had constituted one of the most contentious issues in negotiations between the Government of Bangladesh and the political organization representing the Jummas who had been expelled from their land in the Chittagong Hill Tracts to make way for illegal settlers from the plains. Such transfers must be regarded as a form of genocide. The Government of Bangladesh might do well to resolve that conflict by seizing the opportunity offered to it by the European Parliament when it recommended making the European Commission's funds available to assist persons from the Chittagong Hill Tracts to settle elsewhere.

66. Although it was gratified by the work done by the Sub-Commission's Working Group on Indigenous Populations, his organization was of the view that a permanent forum for indigenous people should be established in the United Nations to examine all aspects of discrimination against them. The Commission should also appoint a special rapporteur on indigenous peoples.

Lastly, the question of minimum humanitarian standards should be analysed in greater detail, particularly as they were violated not only by State but also by non-State agents.

67. Ms. HAWKE (Women's International League for Peace and Freedom) said that her organization firmly supported Sub-Commission resolution 1996/14, whose basic thesis was that complete nuclear disarmament was a necessary precondition for the protection of human rights and fundamental freedoms, for international peace and security and, above all, the right to life. Everyone was aware of the negative impact that the production and use of nuclear weapons had on the right to health, the right to a sustainable environment, and, indeed, the right to life. It was therefore for Governments to redress the injustice that nuclear policies had created over the past decades by, for example, compensating the victims of nuclear tests in the Pacific Islands, Japan, the United States, Kazakstan and China and restoring their natural environment. The mining of uranium as the source material for nuclear weapons resulted in the violation not only of the right to health but also of other cultural rights when the deposits being exploited were situated on sacred sites and indigenous lands. The dangers presented by nuclear power plants were also well known. Her organization congratulated the Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights on having included in her report (E/CN.4/1997/19) the discharge of radioactive waste from uranium mines, the problem of nuclear waste from nuclear power plants and the impact of contaminants on the human rights of indigenous communities, particularly in North America and the South Pacific. She supported the Special Rapporteur's appeal to Governments that they should strengthen national and international regulations on the subject by effective control and implementation mechanisms and endorsed the recommendation that victims should have access to the administrative and judicial procedures of the exporting country.

68. Her organization called upon all Governments to dissociate themselves totally from the nuclear industry in order to move towards the goal of nuclear disarmament and thereby strengthen international peace and security and the protection of human rights. Finally, she emphasized the direct link between military activities, and therefore war, and human rights, which was perpetuated by the military-industrial economy and the nuclear industry in many countries of the world.

69. Ms. SAMBO DOROUGH (Indian Law Resource Centre) said that the study on indigenous land rights proposed by the Sub-Commission in resolution 1996/38 was particularly important because indigenous peoples in many countries continued to be dispossessed of their lands and resources. Most of the social, economic and cultural problems encountered by the indigenous peoples were connected with land rights disputes that had never been settled. Many concerns had been expressed by indigenous peoples in connection with the draft declaration on the rights of indigenous peoples, and it was obvious that the proposed study would help to clarify the land rights provisions of the draft.

70. The Sub-Commission would now have more time to devote to the study of indigenous land rights because the various other studies on questions

concerning indigenous populations that it had embarked upon had been completed. The Commission should therefore approve the Sub-Commission's recommendation concerning that study.

71. Mr. KANE (African Commission of Health and Human Rights Promoters) condemned the maintenance of slavery in Mauritania despite the fact that it had been prohibited by the Mauritanian Constitution in 1961 and by Order No. 81-231 of 9 November 1981. It was explained by the fact that the Government lacked the political will to adopt the legislative and administrative measures necessary to eliminate the practice completely. The "slaves" in Mauritania were deprived of their belongings and of any right to land, and their children belonged to their masters. The United States Congress itself had asked the Government of the United States to suspend assistance to Mauritania until that practice, which affected some 100,000 persons, had been ended. The Mauritanian Government continued to turn a deaf ear to the numerous appeals addressed to it on behalf of the victims of slavery. His organization therefore proposed the establishment of a human rights observatory for Mauritania to follow the situation in that country.

72. Mr. VIDYASEKER (International Progress Organization) said that religious persecution was often encouraged by the discriminatory nature of a State's constitutional and legal institutions. In Pakistan, for example, only Muslims were recognized as true citizens under the Constitution, and a succession of constitutional amendments and laws had in effect reduced its minorities to the status of second-class citizens. The more extreme elements of the majority community were thus able to conduct a sustained campaign of oppression against the minorities with impunity. Their targets were Muslim sects and the defenceless minority communities of Hindus and Christians, whose places of worship were destroyed on the flimsiest of pretexts, and their members accused of blasphemy, prosecuted and killed. Quite recently, a Christian community in a town in Punjab had been attacked by a mob of 30,000 fundamentalists with the connivance of the local police authorities. That resurgence of religious intolerance would be felt far beyond the borders of Pakistan and the Organization of Islamic Conference would do well to remind its members that the harmonious and peaceful coexistence of all religious faiths was an essential principle of Islam.

73. Only democracy could enable the members of various religions to enjoy the same rights without distinction. His organization therefore urged the Commission to use its influence to impress upon States the need to consolidate democratic processes and ensure that all minorities enjoyed equal rights.

74. Mr. WATCHMAN (International Indian Treaty Council) welcomed the Sub-Commission's adoption of resolution 1996/31 in which it recommended that the Working Group on Indigenous Populations should address environmental, land and sustainable development issues at its future sessions, and that intergovernmental organizations and NGOs should provide information and data concerning those questions on which the survival of the indigenous peoples depended.

75. He also noted with satisfaction that the Sub-Commission, in resolution 1996/36, attached importance to the spiritual connection that indigenous peoples had with the land and welcomed the recommendation that the Commission's Special Rapporteur on religious intolerance should study the

impact of outside influences on the ability of indigenous peoples to practise their religion. In that connection his organization regretted that the Special Rapporteur on religious intolerance had not yet taken action on its request that he should examine the problem of the forced displacement of the Navajos and the implications of their displacement for the exercise of the right of such communities to practise their religion. He urged the Special Rapporteur to examine the specific problems of indigenous peoples, such as the Dines in the United States, whose religion was connected with the land.

76. His organization also called upon the Commission to take action on the Sub-Commission's recommendation contained in its resolution 1996/38 concerning a study of indigenous land rights. Lastly, in view of the range of problems faced by indigenous peoples throughout the world at the present time, he urged the Commission to adopt the Sub-Commission's draft decision on the establishment of a permanent forum for indigenous people and to consider the appointment of a special rapporteur on the situation of indigenous peoples.

77. Mr. LEMINE (Observer for Mauritania), speaking in exercise of the right of reply, said he was surprised that the United States representative had seen fit to raise the issue of slavery in Mauritania, since it had been analysed in depth by the Sub-Commission, as a result of which the Commission had decided to remove it from its agenda. He recalled that the Mauritanian Constitution guaranteed to all Mauritanian citizens, without distinction as to race, religion and social status, equality before the law, and that the Mauritanian Labour Code prohibited any form of servile or forced labour. In view of the history of the United States, which had known the most abject form of slavery, namely, one based on race, it was easy to understand why certain segments of American society should be upset by the persistence of the practice elsewhere; the Government of that country should be aware that the Mauritanian Government had spared no effort to do away with vestiges of its past.

78. He hoped that the United States representative was not echoing the ideas of certain NGOs or unscrupulous individuals for whom the issue of slavery was a "business" and who were endeavouring to stir up western public opinion, forgetting that slavery - when it had been practised in Mauritania - had had nothing to do with the distinction made between people on the basis of race and had never attained the same proportions as in the United States. They were trying to perpetuate that myth to promote their personal interests.

79. In view of the positive developments in Mauritania, where the rule of law had been established and democratic principles were well rooted in the life of society, it was, to say the least, unwarranted to revert to a matter that had been duly examined in detail and objectively and put to rest.

80. The CHAIRMAN said that the Commission had completed its consideration of agenda item 16.

The meeting rose at 9.05 p.m.